



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

March 29, 2010

CBCA 1710-RELO

In the Matter of EDWARD C. WOLAHAN

Edward C. Wolahan, Longmont, CO, Claimant.

William D. Robinson and Bradley J. Breslin, Office of General Counsel, Federal Bureau of Prisons, Department of Justice, Washington, DC, appearing for Department of Justice.

DRUMMOND, Board Judge.

Edward C. Wolahan is an employee of the Federal Bureau of Prisons. Mr. Wolahan asks that we review his agency's demand for repayment of \$2170, costs the agency paid to a relocation services contractor in connection with a home sale he failed to complete as planned.

In 2007, the agency transferred Mr. Wolahan from one duty station in Colorado (Longmont) to another (Aurora). In conjunction with this transfer, the agency, at Mr. Wolahan's request, authorized relocation benefits, including the use of a relocation services contractor. The agency budgeted \$48,860 for the cost of the contractor's work. The contractor immediately began to provide services with regard to selling Mr. Wolahan's residence in Longmont. Mr. Wolahan, while reporting to his new duty station to work, never established a residence at his new duty station during the two years offered by the agency to complete his relocation. Instead, he commuted daily from the residence he owned near the old duty station.

The relocation services contractor eventually billed the agency for the actions it undertook preparatory to selling Mr. Wolahan's house. The invoice provided by the relocation services contractor totaled \$2170, representing the costs for two appraisals, a radon inspection, and title and closing services. The agency then demanded that Mr. Wolahan repay the agency the \$2170 it had paid to the relocation services contractor on his behalf.

The agency maintains that it is justified in demanding repayment. Its position is based on the language in the service agreement signed by Mr. Wolahan prior to transferring to Aurora. The service agreement states:

I understand that in the event I fail to remain in Government service (except for reasons beyond my control and acceptable to the Federal Prison system) for twelve (12) months following the effective date of transfer, any moneys expended by the United States . . . including amounts paid to a relocation services company on my behalf in connection with this transfer will be recoverable as a debt due to the United States.

The service agreement concerns only the situation in which an employee transfers but leaves government service within twelve months of the move. This is not the situation here. While Mr. Wolahan never moved to a residence at his new duty station, he remains in government service.

The agency also calls our attention to two paragraphs in a "Statement of Understanding for Short Distance Transfer" signed by Mr. Wolahan:

If the Assistant Director for Administration determines the relocation of residences is not reasonably related to the change of official duty stations, relocation allowances will not be authorized and the transferee will be required to repay any relocation expenses already incurred. These expenses would include . . . real estate reimbursement including any amounts paid by the Bureau to the relocation company for use of the home sale program

I fully understand the above statements concerning short distance transfer. I further understand that in the event that my transfer would be determined ineligible for relocation expense reimbursement by the Assistant Director for Administration, I will be responsible for repayment of all relocation expenses previously incurred.

Like the language in the service agreement, these paragraphs cover a situation different from the one presented here. The agency expressly granted approval to Mr. Wolahan for reimbursement of allowable relocation expenses incurred by him as result of his transfer.

We can find nothing in statute, regulations, agency guidelines, or the documents provided by the agency in this case which mandates that an employee who transfers as authorized, but decides not to sell his house at his old duty station, must repay sums the agency paid to a relocation services contractor for initial work it performed preparatory to selling the house. To the contrary, according to the Federal Travel Regulation, an employee who is authorized to enter a homesale program may reject an offer from the relocation services company, and the agency is required to pay a relocation services company's fees for services the employee is authorized to use. 41 CFR 302-12.4, -12.8 (2007). Consequently, we hold that Mr. Wolahan is not indebted to the agency for the amount it paid to the contractor.

JEROME M. DRUMMOND
Board Judge